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March 4, 1987

Mr. Ronald S. Erickson
Deputy County Counsel
Office of the County Counsel
County of Sutter
463 Second Street
Yuba City, CA 95991

RE: Escape Assessment on Undervalued Gas Wells

Dear Mr. Erickson:

This is in response to your letter to Chief Counsel James J. Delaney in which you ask our opinion regarding the escape assessment of a certain gas well in your county. We have reviewed the contents of your letter and have discussed the facts with Ken Klebe of your County Assessor's Office. We understand the following to be the facts:

The well in question was drilled and completed about September 1983 by the Anacapa Oil Corporation. The well is identified as "Thomassen No. 2". The well was capped and did not produce until March 1984. Anacapa did not file geological information with the assessor in 1983 or 1984. The assessor, in the absence of taxpayer furnished information, made his lien date March 1, 1984, assessment based upon a comparison of known values of nearby wells. By this method he estimated the value of the well to be about \$2 million. Later, for lien date March 1, 1985, when the assessor was supplied with well production data for 1984, he valued the well at approximately \$4 million. Armed with this production information, the assessor escape assessed the property for lien date March 1, 1984, for the difference between the 1984 assessment and the 1985 assessment.

The property owner has appealed the escape assessment asserting that the escape assessment is improper because the assessor used later found information which could not have been reflected in the market value of the property on March 1, 1984. At the request of your local Board of Equalization, you asked our opinion as to the property owner's assertion.

Pat & Munn

A leading case in this area has established the proposition that the assessor has the right and the constitutional duty not to allow anyone to escape a just and equal assessment through favor, reward, or otherwise. Property must be assessed uniformly even though there has been an earlier assessment where the assessment was too low even though that earlier underassessment was made with all parties acting in good faith. (Hewlett Packard Company v. County of Santa Clara, 50 Cal.App.3d 74; but see Dreyer's Grand Ice Cream, Inc. v. Alameda (1986) 178 Ca.3d 1174) Therefore, under the facts as we understand them and subject to the limitations imposed by the Dreyer's decision the assessor had the full right and duty to escape assess this gas well property if it was underassessed on March 1, 1984. Thus, the issue is whether the well was underassessed on March 1, 1984.

The assessor must first find market value of the property as of the March 1, 1984, valuation date. Only an assessment at less than the March 1, 1984, market value can form the basis for the escape assessment. Any information not in existence on the valuation date would not be considered by the marketplace in determining the current value of the property. It appears to us that well production data coming into existence during 1984 for use to establish a 1985 lien date value is not evidence of the 1984 lien date value of the property. Thus, it is not evidence that the property was underassessed for lien date 1984. For this reason, we conclude that such data should not be used as a basis for establishing the escape assessment.

We have obtained from the representative of the owners of Thomasen No. 2 well the geological information purportedly available as of the lien date March 1, 1983. We are enclosing this information for your use. We are sending you our only copy because we do not have the reproduction equipment to copy these irregularly shaped documents.

Very truly yours,


Robert R. Keeling
Tax Counsel

RRK/rz

Enclosure

cc: Mr. Gordon P. Adelman
Mr. Robert Gustafson
Mr. Verne Walton
Mr. William Beecroft
Mr. James R. Weddle

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